

**REMARKS****I. Status of the Claims:**

Claims 1-7, 9-19, 21-30 and 32-53 are all the claims currently pending in the application. By this Amendment, claims 1, 13, 25, 36, 37, 43 and 50-53 have been amended. No new matter has been introduced by this Amendment. Thus, entry and consideration of this Amendment are respectfully requested.

**II. Response to the §101 Rejections:**

In the Office Action, the Examiner states that claims 51 and 53 are directed to non-statutory subject matter because the recited terminology, "computer program," alone has no set definition. The Applicant has amended claims 51 and 53 to include an updated preamble more in-line with the Examiner's suggestions. The proposed claims changes to claims 51 and 53 should be sufficient to overcome the §101 rejections by the Examiner.

**III. Response to Claim Rejections Under 35 U.S.C. §102 and §103:**

Claims 37-53 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,256,115 to Adler et al. (hereafter Adler). Claims 1-7, 9-19, 21-30, and 32-36 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Adler in view of U.S. Patent No. 5,521,719 to Yamada (hereafter Yamada). Accordingly, we propose the following amendments and arguments for responding to the above claim rejections.

In the Office Action, the Examiner states that Adler discloses each and every element as recited in the above claims. To expedite prosecution, the Applicant has amended independent claims 1, 13, 25, 36-37, 43 and 50-53 to more particularly point out the distinguishable features of the present invention. More specifically, the claims have been amended to recite "selecting

whether to release the public telephone network or whether to continue communication when either destination data or information data is not received within a prescribed time."

The present invention, as recited in claims 1, 13, 25, 36-37, 43 and 50-53, is directed to an apparatus, method, and computer program that includes means for selecting whether a communication is continued via a network when destination data or information data is not received within a prescribed time from the network after a session is started. Support for this feature can be found in Fig. 2 of the application. As illustrated in Fig. 2, the CPU 6-3 checks at step 2-4 if a prescribed time has elapsed. If so, then in step 2-24 the CPU checks the mode of operation i.e., line connection mode or facsimile reception mode. Depending on the mode of operation, the CPU executes the appropriate steps, which may include facsimile reception or release of the public telephone network.

Conversely, Adler discloses an apparatus that solely compresses, encrypts, and sends the fax transmission from one fax machine to another fax machine using different protocols (primarily phone lines or through the internet). The transmission is compressed and encrypted in a pre-determined format for the purpose of transmission only. Adler does not disclose a means for selecting whether a communication is continued via a network when destination or information data is not received within a prescribed time, but rather provides an automatic termination feature upon time-out. That is, a user is not presented with a choice to continue upon time-out but instead automatically flows to an "END" block when a time-out occurs.

Moreover, the Applicant maintains that Yamada does not overcome the deficiencies noted above in the Adler. Accordingly, even if one of ordinary skill in the art were to combine the teachings of Adler and Yamada, the combination still would not teach or suggest all the limitations recited in the above claims.

Accordingly, independent claims 1, 13, 25, 36-37, 43 and 50-53 are believed to be distinguishable over the combination of Alder and Yamada. Likewise, dependent claims 2-7, 14-24, 26-35, 38-42 and 44-49 are also believed to be distinguishable over the combination of Alder and Yamada based on their respective dependencies on claims 1, 13, 25, 37 and 43.

**CONCLUSION**

Based on the foregoing amendments and remarks, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims and allowance of this application.

**AUTHORIZATION**

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 13-4500, Order No. 1232-4458US1.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 13-4500, Order No. 1232-4458US1.

Respectfully submitted,  
MORGAN & FINNEGAN, L.L.P.

Dated: 09/06/05

By:

Mark D. Pratt  
Mark D. Pratt  
Registration No. 45,794  
(202) 857-7887 Telephone  
(202) 857-7929 Facsimile

**Correspondence Address:**

MORGAN & FINNEGAN, L.L.P.  
3 World Financial Center  
New York, NY 10281-2101